

Read and referred to the Committee on Rules.

By leave Senator Lightfoot introduced a bill entitled "An act to regulate contracts between employers and employees, to provide liens to secure wages, and to impose penalties for the violation of such contracts." Referred to Judiciary Committee No. 1.

On motion of Senator Henderson, Senator Stubbs was excused until Tuesday next in consequence of important business.

On motion of Senator Buchanan of Wood, Senator Duncan was excused until Tuesday next.

On motion of Senator Buchanan of Wood, the Senate adjourned until Monday next at 10 o'clock A. M.

THIRTIETH DAY.

SENATE CHAMBER,
AUSTIN, February 14, 1881. }

Senate met pursuant to adjournment; the President in the chair.

Roll called—quorum present.

Prayer by Rev. Dr. Bunting.

On motion of Senator Homan, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Lightfoot presented a petition of citizens of Lamar county, asking that a normal school be established at Paris, Lamar county. Referred to Committee on Educational Affairs.

Senator Stewart presented a petition of citizens of Fort Bend county, who are stockraisers, protesting against the repeal of the stock law, and giving their reasons therefor. Referred to the Committee on Stock and Stockraising.

Senator Houston presented a petition, signed by five hundred and eighty citizens of Bexar county, protesting against the passage of the bill diminishing the jurisdiction of their county court. Referred to Committee on State Affairs.

Senator Gooch, for Judiciary Committee No. 2, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 12, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 2, to whom was referred Senate bill No. 140, a bill to be entitled "An act doubling the penalty of all offenses committed in the State of Texas with a weapon the carrying of which is prohibited by law," have had the same under consideration, and I am instructed by the committee to report it back to the Senate with the recommendation that it do pass.

Gooch, for Committee.

Bill read first time.

Senator Homan, chairman of Committee on Rules, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Revision of the Rules, to whom was referred Senate resolution, providing that "the first business after the morning call shall be the calling of the roll of the Senate," etc., have considered the same, and I am instructed to report and recommend the passage of the accompanying substitute for such resolution.

Homan, Chairman.

COMMITTEE SUBSTITUTE.

Resolved, That hereafter, at the morning sessions of the Senate, immediately after the morning call, the names of Senators shall be called alphabetically, as they stand upon the roll, and each Senator, as his name is called, shall have the right to call up for action of the Senate such bill as he may desire; and at each succeeding morning session the Secretary shall begin the call where he left off at the last preceding session; provided, that the general appropriation and deficiency bills and tax bills shall have precedence of other bills, and may be called up at any time by any Senator.

On motion of Senator Gooch, substitute was amended by

inserting the word "morning" before "session," and substitute as amended, was adopted.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and find correctly engrossed Senate bill No. 155, entitled "An act to reorganize the Twenty-fifth Judicial District of the State of Texas and to prescribe the times for holding the district courts therein."

Senate bill No. 164, "An act validating the proceedings of the County Court of Jackson county."

Senate bill No. 146, "An act to create the county of John Upton, and to define the boundaries thereof."

BUCHANAN of Grimes, Chairman.

Senator Terrell, chairman of Judiciary Committee No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Judiciary Committee No. 1 have had under consideration Senate bill No. 133, and I am instructed to report the same back and recommend that, with accompanying amendments, it do pass.

The object of the bill is to so change the law as to require the services of a guardian *ad litem*, to be paid for out of the estate of the minor. The amendments recommended are as follows:

1. Amend section 1 by adding thereto the following: "Nor shall the real estate of the minor be subject to satisfy the claim of the guardian *ad litem* for compensation for his services."

2. Amend section 1, line 4, by inserting after the word "execution" the following, viz: "In due course of administration, after allowance by the court trying the cause."

TERRELL, Chairman.

Bill read first time.

Senator Martin of Cooke, chairman of Committee on Public Lands, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Lands to whom was referred Senate bill No. 125, "An act to authorize and require the Commissioner of the General Land Office to issue a patent on certificate No. 291 to the Mexican Telegraph Company," have had the same under consideration, and, in view of the good results to accrue to the State from encouraging the Mexican Telegraph Company in its work of connecting the telegraph systems of the United States and Mexico, and that this section of land is necessary to the uses of the company in landing its cable and constructing its offices, a majority of the Committee instruct me to report the bill back with the recommendation that it do pass.

MARTIN of Cooke, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee of Public Lands to whom was referred Senate bill No. 143, "An act to amend an act entitled 'an act to authorize the Commissioner of the General Land Office to contract for the lithographic printing of maps of the various counties of the State, and to provide for the sale of the same, and to make an appropriation therefor,'" have had the same under consideration and instruct me to report the same back to the Senate with the recommendation that it do pass.

MARTIN of Cooke, Chairman.

Bill read first time.

A message was received from the House, announcing the adoption of the report of the joint conference committee of the House and Senate, appointed to adjust the difference between the two bodies with regard to joint committee for re-districting the State into congressional, representative and senatorial districts; and that the Speaker of the House has appointed on the committee on congressional districts, Representatives Hill, Chenoweth, Mack, Hutcheson, Finlay, Perrenot and Blacker; on senatorial and representative districts, Representatives Wurzbach, Smith, Denman, Traylor, Barry, Arnold and Matlock.

Also, the adoption of House joint resolution No. 39, authorizing the Governor to employ a suitable and competent architect or architects to assist the board of commissioners appointed to superintend the construction of a new capitol, and to provide for the payment of his services.

Also, the passage of Senate bill No. 14, entitled "An act to establish a rule governing the defense of intoxication and of temporary insanity produced by the voluntary recent use of ardent spirits, in criminal causes in this State."

Also, that the House concurs in the Senate amendment to House bill No. 292, entitled "An act to reorganize the Tenth Judicial District, and to establish the the Thirty-fifth Judicial District, and prescribe the time of holding terms of court therein, and providing for the appointment of a district attorney and a district judge for the Thirty-fifth Judicial District, and a district attorney for the Tenth Judicial District."

The President, after reading its caption, signed Senate bill No. 73, entitled "An act defining who are officers of this State, and prescribing their rights, powers, duties and privileges."

Senator Powers offered the following resolution :

Resolved, That the Comptroller of Public Accounts be and he is hereby required to report to the Senate with all convenient speed, whether the records of his office show that any sheriff in this State has failed to pay over to the proper authorities any of the late one per cent school tax, and if so, then that the names of such delinquent sheriffs be included in such report, with the accounts respectively of such delinquencies.

And, further, whether any prosecutions have been instituted against such delinquents, and whom, and with what effect; and that if no such prosecutions have been instituted, the cause of such neglect, if any be apparent.

Adopted.

Senator Wynne introduced a bill entitled "An act to amend article 2616, of chapter 13, title 47, of an act entitled 'an act to adopt the Revised Civil Statutes of the State of Texas,' passed by the Sixteenth Legislature" Referred to Judiciary Committee No. 1.

Senator Lair introduced a bill entitled "Act to amend the stock law." Referred to Judiciary Committee No. 1.

Senator Martin of Cooke introduced a bill entitled "An act to amend article 3994 of title 80 of the Revised Civil Statutes" Referred to Committee on Printing.

Senator Cooper, chairman of Committee on Enrolled Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Enrolled Bills have carefully examined, compared and find correctly enrolled Senate bill No. 73, "An act defining who are officers of this State, and prescribing their rights, powers, duties and privileges," and, at 10:35 o'clock A.M., presented the same to the Governor for his signature.

COOPER, Chairman.

The President appointed on Committee on Congressional Districts, to act with a like committee appointed by the Speaker of the House, Senators Burges, chairman; Gooch, Hightower, Shannon, Harris, Terrell, and Henderson.

On Senatorial and Representative Districts, Senators Wynne, chairman; Lightfoot, Martin of Cooke, Ross, Patton, Lane and Houston.

The Secretary, under the resolution permitting Senators, as their names came up on the roll-call, to call up any bill they might choose to have considered, called the roll and Senator Buchanan of Grimes called up Senate bill No. 146, entitled "An act to create the county of 'John Upton,' and to define the boundaries thereof." Bill read third time.

Senator Burges offered the following amendment:

The near approach of the close of the present session of this Legislature, creates an imperative public necessity for the suspension of the constitutional rule requiring all bills to be read on three several days, and such rule is accordingly suspended.

Adopted by the following vote:

YEAS—22.

Buchanan of Grimes	Homan,	Powers,
Buchanan of Wood,	Houston,	Rainey,
Burges,	Lair,	Ross,
Cooper,	Lightfoot,	Shannon,
Gooch,	Martin of Cooke,	Swain,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Wynne.
Hightower,		

NOT VOTING—3.

Lane,	Stewart,	Weathered.
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Bill passed by the following vote:

YEAS—23.

Buchanan of Grimes	Homan,	Powers,
Buchanan of Wood,	Houston,	Rainey,
Burges,	Lair,	Ross,
Cooper,	Lane,	Shannon,
Gooch,	Lightfoot,	Swain,
Harris,	Martin of Cooke,	Terrell,
Henderson,	Martin of Navarro,	Wynne.
Hightower,	Moore,	

NOT VOTING—2.

Stewart,	Weathered.
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The following message was received from the Governor:

EXECUTIVE OFFICE,
AUSTIN, February 14, 1881.

To the Honorable the Senate and House of Representatives in the Legislature assembled:

I herewith submit to you the communication of the Hon. J. H. McLeary, Attorney-General of the State, in regard to amendments of the statutes relating to his department, and to the better execution of the laws; for all of which I respectfully ask your due consideration.

Respectfully submitted,

O. M. ROBERTS, Governor.

ATTORNEY GENERAL'S OFFICE, February 10, 1881.

Hon. O. M. Roberts, Governor of Texas:

Sir—Since my induction into office on the first of January last, some matters of more or less importance have been brought to my notice by those officers most interested in the several subjects, and in many instances I have been requested to lay them before your Excellency for consideration.

Inasmuch as the Legislature is now holding its regular biennial session, it seems an opportune moment to call your attention to these things, though doubtless many of them have occurred to you and have been duly considered. However, as you have requested me to do so, I would offer the following suggestions for such action as you may see proper to take in the premises:

1. My predecessors in this office have filled nine volumes of manuscript with opinions, many of which are full of instruction, and are the result of great labor and research, but they are comparatively useless in the form of written record. I would respectfully recommend that they be properly noted, arranged and indexed, and that a limited number of copies—say one thousand—be printed for the use of the departments, district and county attorneys and other officers. I have no doubt that such a course would render inquiries now made of this office altogether unnecessary, and greatly conduce to the public welfare. Should this meet your approbation and legislative sanction be given the publication, it will afford me pleasure to prepare the manuscripts for the press.

2. Some legislation is necessary to diminish the expense of the State in the collection of its revenues. In cases where suits have been instituted against defaulting sheriffs and tax collectors the State has had to pay ten per cent on all sums collected, even when the amount has reached thousand of dollars; and the report of my predecessor, Hon. George McCormick, shows that claims amounting to \$189,466.54 have been placed in the hands of one county attorney alone. The fees on this amount would reach \$18,946.65, more than six times enough to pay a good salary to a competent officer of the State for his whole time and talents in the prosecution of suits for the collection of the revenue. Should such an office be created, the incumbent might also be required to visit such collectors as appeared to be irregular in making their payments of moneys collected, and to inspect their books and force settlements before the defalcation assumed such great proportions, and in this way prevent the necessity of much litigation. It would seem proper to have such an officer connected with and responsible to this office, as it appears to

be the intent of the law to give the Attorney-General supervision over all law business in which the State is interested. Should it not seem proper to create an office charged with these duties, then it would be well to authorize the Attorney-General to contract with responsible attorneys, engaging their services on behalf of the State to attend to these cases for such fees in each case as may be agreed upon, not to exceed ten per cent of the amounts actually collected. I would also call attention to the uncertainty of the law as it now exists, under which payments of commissions on judgments collected from defaulters and their sureties have been made.

The section will be found in Revised Statutes, article 1112, Code of Criminal Procedure, page 133, and General Laws of 1879, chapter 126, page 133. As this is found in the Code of Criminal Procedure, it may be doubtful whether it was intended to apply to moneys collected in civil suits. Indeed in the case of the State of Texas vs. T. J. Worrell, No. 4311, the Supreme Court has decided that clerks are not entitled to the five per cent on the amount of judgments recovered in civil cases, but that this section referred only to cases of *seire facias* on forfeited bail bonds and recognizances. This same construction it seems would apply with equal force to district and county attorneys. Notwithstanding, my predecessor, from motives of public policy, and the necessity of the case, perhaps, has allowed the attorneys representing the State to retain ten per cent commissions on all judgments collected by them. Some legislation is evidently needed on this subject, if attorneys representing the State in those cases, are to receive any compensation for their services.

It may be added, that as far as possible I shall endeavor to give my personal attention to these matters and save the State all the expense possible.

3. Another matter presents itself for consideration, which, perhaps, has occurred already to your Excellency. In many of the counties cases occur, which from their peculiar circumstances, and the array of counsel retained by the defence seem to demand that counsel be employed by the State to assist the regular prosecuting officers. The last Legislature, seeing the necessity of these cases authorized the Governor in certain cases to employ counsel, and appropriated for that and other specified purposes, fifteen thousand dollars to meet the expense. The law as it now stands authorizes the Governor or the Attorney-General to require the Assistant Attorney-General to represent the State in such cases. But the attendance of that officer on the Court Appeals for nine months in the year renders it impossible for him to do any service in this capacity. Should the Legislature entirely reform the present judicial system, this emergency might be otherwise provided for, but if the present system remains it might be cheaper for the State to have a general prosecutor, who might be sent here and there as his services might be required in aid of the district and county attorneys.

4. Pardon me, also, your Excellency, in calling your attention to another provision of the law relating to this department, which, in my opinion, is susceptible of improvement.

Article 2809 of the Revised Statutes, in providing for the appointment of Assistant Attorney-General, gives the Attorney-General no voice in the selection of his assistant. Although no case has, as yet, arisen in which the appointment of this officer has disturbed the harmony of the administration, yet such a complication may at any time arise under existing laws. The Attorney-General, being the chief law officer of the State, chosen by the people and responsible to them in their sovereignty for a proper administration of his office, should certainly have an advisory power, at least, in the choice of all officers who are to work under his direction and occupy positions in his office. No matter if the assistant appointed by the Governor should happen to be the identical man that the Attorney General would have chosen, yet the mere fact that his appointment was made without the concurrence of that officer would have a tendency to mar the harmonious intercourse and good understanding that should exist between every head of department and his subordinates. Indeed, the Legislature has not overlooked this very apparent principle in regard to other departments. The Commissioner of the General Land Office appoints his chief clerk (who is really his assistant), and his Spanish translator, both of whom are bonded officers, and "with the approval and consent of the Governor" also appoints the receiver, one of the most important offices in the State. So it is with the chief clerks in the Comptroller's and Treasurer's offices, both of whom act as the heads of their respective departments in the absence of those officers. Inasmuch as the appointment has already been made for the present term, and as I am perfectly satisfied with the selection made, the hope may be cherished that this suggestion will not be attributed to any greed for patronage or thirst for power.

5. Many suggestions have been received from district and county attorneys, and the following, relating to the Code of Criminal Procedure, are recommended to your favorable consideration:

a. Article 435 Code of Criminal Procedure should be amended so as to require all criminal cases over which the inferior court have jurisdiction to be transferred to the proper courts as soon as presented.

b. Article 911 Code of Criminal Procedure should be amended so as to require a criminal case pending before a justice of the peace to be postponed to the regular term, if a postponement is obtained by either party.

c. Provision should be made for the payment by the State of fees to magistrates and prosecuting officers for services rendered in examining courts.

d. Provision should be made for the payment by the county of fees to interpreters in the district and county courts—to be paid upon the approval of the judge presiding.

e. The law should require any practicing physician, at the summons of a magistrate, to make a post mortem examination, which should be reduced to writing, sworn to by the physician, certified to by the magistrate, and be made a part of the record upon inquest. A fee should be prescribed for such services, and paid by the county.

f. Article 800 Code of Criminal Procedure should be amended by striking out "at the same term of the court," so that sentences in felony cases shall be cumulative, whether the judgments are rendered at the same term or by the same court, or otherwise.

g. Article 816 Code of Criminal Procedure should be amended so as to require the fine and costs to be discharged at the rate of one dollar for each day the convict is imprisoned. Under the present law the punishment inflicted in such cases is not more than one-third of that borne by convicts who are hired out or put to work by the county authorities.

6. Articles 2394, 2395, relating to compensation of county clerks, for ex-officio services, should be so amended as to specially enumerate the services for which such compensation shall be allowed, and the maximum should be governed by the population of the county—in the county court not to exceed twenty dollars, and in the county commissioners' court not to exceed forty dollars, for each one thousand inhabitants. Much confusion arises in the various counties upon this subject, and I respectfully suggest that the courts be granted power to fix and allow clerks a reasonable compensation for all services required of them by law.

7. In the law regulating railroad companies, article 4249 Revised Statutes, the time allowed for making the annual report is too short. At least sixty days should be given for that purpose. It is necessary in order to make a complete report as required by law for the company to get returns from other railroad companies all over the United States; which in many cases can not be done within the twenty days now allowed by law.

8. Anticipating that a new judiciary article will probably be inserted in the Constitution by amendment, and that legislation will be had in conformity therewith, precludes the necessity of many other suggestions.

Desiring to keep this branch of the Executive Department up to the full standard of efficiency,

I have the honor to be, very respectfully,

J. H. McLEARY, Attorney-General.

On motion of Senator Homan, the message and accompanying documents were referred to Judiciary Committee No. 2.

Senator Buchanan of Wood, being next on the roll, called up Senate bill No. 18, entitled "An act regulating juries in capital cases." Bill read second time with substitute for original bill.

(Senator Moore in the chair.)

Substitute lost.

(President in the chair.)

Senator Buchanan of Grimes offered the following amendment: Amend by adding to section 1 the following proviso:

Provided, that this section shall only apply to counties in which only one week of time is allowed the district court.

Adopted.

Senator Terrell offered the following substitute:

Whenever from any cause a special venire must be summoned to try a criminal cause, it shall be the duty of the district judge to appoint three special jury commissioners, who after being duly sworn as commissioners, shall at once make from the list of qualified jurors a list of jurors to be summoned in such number as the jury may direct, and the sheriff shall at once appoint a sufficient number of special bailiffs to promptly summon the names so chosen; and no juror shall be summoned on a special venire who has not been selected by special commissioners.

Senator Houston offered the following amendment to the substitute:

Section 3, line 20, strike out all after word "court" and insert "shall appoint three special jury commissioners, who after being sworn as commissioners, shall at once make from the list of qualified jurors of the county a list of talismen, to be summoned by direction of the court, to make up the number necessary for the jury to try the case; and no one not so selected shall be summoned as such talisman."

Senator Rainey moved to postpone consideration of the bill till to-morrow morning after morning call.

Senator Homan raised the point of order that the motion to amend has precedence over motion to postpone. Point of order sustained.

On motion of Senator Houston the bill was postponed till to-morrow morning, and made special order after morning call.

Senator Homan entered a motion to reconsider the vote adopting resolution changing the order of business by roll call, adopted this morning.

Senator Powers, chairman of Committee on Public Claims and Accounts, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Claims and Accounts, to which was referred the petition and accompanying claims of William Scanlan, respectfully report that they have had the same under consideration and find that said claims are two in number and arise out of transactions of said Scanlan as sheriff of the county of Cameron.

That one of the claims is for the sum of one thousand and four dollars, for conveying four prisoners from Brownsville to Huntsville, delivered on or about the twenty-ninth of October, 1880, to the superintendent of the penitentiary of the State; including his traveling fees as sheriff and the claims for allowance of guards, as stated in said account.

The petitioner claims that this amount should be audited by the superintendent and paid or allowed by the Comptroller, and charged to the account of the lessees of the penitentiary, by reason that they did not take and transport said prisoners (being convicts) to the penitentiary in accordance with their contract with the State in this regard.

Without further detailing this claim, your committee find that under the law on this subject, by section 22 of the act entitled "An act to provide for the organization of the State penitentiaries, and to regulate the management of the convicts therein," approved March 24, 1879, the superintendent of the penitentiary is prohibited from approving any account until it is first sworn to; and that this account is not sworn to as required by law.

Your committee, therefore, instruct me to report the accompanying resolution, and recommend its passage.

POWERS, Chairman.

Resolved, That the Committee on Public Claims and Accounts, to which was referred, with another, the claim of William Scanlan, late sheriff of Cameron county, for \$1004, for delivering certain prisoners (convicts) to the superintendent of the penitentiary at Huntsville, on or about the twenty-ninth day of October, 1880, be discharged from the further consideration of the said claim, for not being properly authenticated as required by law; and that said Scanlan be and he is hereby allowed to withdraw said claim for the purpose of proper authentication, if he so elects.

On motion of Senator Gooch, the report and accompanying resolution were adopted.

The President signed House bill No. 292, entitled "An act to reorganize the Tenth Judicial District, and to establish the Thirty-fifth Judicial District and prescribe the time of holding the terms of courts therein, and providing for the appointment of a district attorney and district judge for the Thirty-fifth Judicial District, and a district attorney for the Tenth Judicial District."

Senator Gooch, chairman of Committee on Public Debt, by leave, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Public Debt have had under consideration Senate bill No. 100, entitled "An act for the relief of J. M. Brown-

son," and I am instructed to report it back to the Senate, with the recommendation that the accompanying amendment be adopted, and that as amended it do pass.

GOOCH, Chairman.

AMENDMENT.

Provided, That before said money shall be paid, said J. M. Brownson shall execute and deliver to the Treasurer of the State, for his approval, his bond, with two solvent sureties, payable to the said Treasurer and his successors in office, for the sum of one hundred and fifty dollars, conditioned that he will refund the money paid to him, with interest thereon, if it shall be found that it was wrongfully or improperly paid to him."

Bill, with amendments, read first time.

Senator Burges, chairman of Committee on Retrenchment and Reform, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Retrenchment and Reform, to whom was referred Senate resolution, to inquire into the expediency of reducing the number of employees, have duly considered the same, and instruct me to report adversely, as it is the opinion of the committee that there are no more employees than are needed.

BURGES, Chairman.

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Retrenchment and Reform to whom was referred Senator Burton's resolution to appoint an additional page, have duly considered the same, and instruct me to report adversely, as it is their opinion that there are pages enough at present.

BURGES, Chairman.

Senator Houston called up his motion to reconsider the vote passing House bill No. 51, entitled "An act to diminish the civil and criminal jurisdiction of the county courts of Henderson, Parker, Lampasas, Blanco, and Bexar counties, and conform the jurisdiction of the district and justices courts of said counties to such change." Motion adopted and bill taken up.

Senator Houston offered to amend by adding the counties of Kimble, Nueces, Gillespie and Kendall.

Senator Homan moved to amend by adding "Austin" after "Kendall" in the amendment. Accepted.

Senator Powers moved to further amend amendment of Senator Houston by adding after the last named county the word "Uvalde." Accepted.

The amendment, as amended, was adopted by the following vote:

YEAS—21.

Buchanan of Grimes	Hightower,	Powers,
Buchanan of Wood,	Homan,	Rainey,
Burges,	Houston,	Ross,
Cooper,	Lair,	Shannon,
Gooch,	Lightfoot,	Stewart,
Harris,	Martin of Navarro,	Swain,
Henderson,	Moore,	Weatherred.

NOT VOTING—4.

Lane,	Terrell,	Wynne.
Martin of Cooke,		

Senator Burges moved to amend by striking out the word "Bexar" wherever it occurs in the bill. Lost by the following vote:

YEAS.

Burges.

NAYS—23.

Buchanan of Grimes	Lair,	Ross,
Cooper,	Lane,	Shannon,
Gooch,	Lightfoot,	Stewart,
Harris,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Terrell,
Hightower,	Moore,	Weatherred
Homan,	Powers,	Wynne
Houston,	Rainey,	

NOT VOTING.

Buchanan of Wood.

Bill passed by the following vote:

YEAS—25.

Buchanan of Grimes	Houston,	Rainey,
Buchanan of Wood,	Lane,	Ross,
Burges,	Lair,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Swain,
Harris,	Martin of Navarro,	Terrell
Henderson,	Moore,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,		

Senator Terrell—I vote no on the amendment of Senator Burges because the Senator from Bexar has stated that if left to the voters of Bexar county, at least four-fifths of them would, when understood by them, vote to abolish the civil and criminal jurisdiction of the county court."

A message was received from the House, with accompanying memorial of the Board of Trade of the city of Dallas, announcing the adoption by that body of a House concurrent resolution, instructing our Senators and requesting our Representatives in Congress to have passed an act granting permission to construct a railway and to obtain the right of way through the Indian Territory for the St. Louis and San Francisco Railway Company.

On motion of Senator Stewart, the regular business was postponed and Senate bill No. 119, entitled "An act to amend article 3593, chapter 9, title 71 of the Revised Civil Statutes of the State of Texas," was taken up and ordered engrossed.

On motion of Senator Stewart the rules were suspended and bill placed on its third reading, by the following vote:

YEAS—24.

Buchanan of Grimes	Homan,	Powers,
Buchanan of Wood,	Houston,	Ross,
Burges,	Lair,	Rainey,
Cooper,	Lane,	Shannon,
Gooch,	Lightfoot,	Stewart,
Harris,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Weatherred,
Hightower,	Moore,	Wynne.

NAYS—none.

NOT VOTING—2.

Burton, Terrell.

Bill read third time and passed by the following vote:

YEAS—23.

Buchanan of Grimes	Homan,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Burges,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Swain,
Harris,	Martin of Navarro;	Terrell,
Henderson,	Moore,	Weatherred,
Hightower,	Powers,	

NAYS—2.

Houston,

Wynne.

NOT VOTING.

Burton.

Senator Cooper moved that the regular order of business be postponed and that House joint resolution No. 39, "Authorizing the Governor to employ a suitable and competent architect or architects to assist the board of commissioners appointed to superintend the construction of a new capitol, and to provide for the payment of his services," be taken up. Adopted and resolution read first time.

Special order, being Senate bill No. 10, entitled "An act to prescribe the requisites of indictments in certain cases," was taken up, and on motion of Senator Homan, postponed until to-morrow.

On motion of Senator Rainey regular business was postponed and concurrent resolution just reported from the House, with regard to the railway through Indian Territory, taken up, read and adopted.

Senator Cooper moved to suspend the rules and place the resolution on its second reading. Carried by the following vote:

YEAS—24.

Buchanan of Grimes,	Houston,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Cooper,	Lane,	Shannon,
Gooch,	Lightfoot,	Stewart,
Harris,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Terrell,
Hightower,	Moore,	Weatherred,
Homan,	Powers,	Wynne.

NAYS—none.

NOT VOTING—2.

Burges,

Burton.

Resolution read second time.

Senator Cooper offered the following amendment: Amend by striking out all after the word "and" in line —, down to and inclusive of the word "some" in line —, and insert in lieu thereof the following:

Inasmuch as it is a question of great delicacy and necessarily involves great responsibility, to the end that satisfaction may be assured in their final determination, and in accordance with the recommendation of his Excellency the Governor, and the request of the two building commissioners and the superintending architect, that a skilled and impartial architect be employed to assist in the examination and selection of plans which shall be subject to the approval of the Governor and heads of departments.

Adopted.

Resolution passed to third reading by the following vote:

YEAS—23.

Buchanan of Grimes	Lair,	Ross,
Buchanan of Wood,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Swain,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Weatherred,
Hightower,	Powers,	Wynne.
Homan,	Rainey,	

NAYS.

Houston.

NOT VOTING.

Burton.

On motion of Senator Gooch, the rules were further suspended and resolution placed on its third reading by the following vote:

YEAS—24.

Buchanan of Grimes	Houston,	Rainey,
Buchanan of Wood,	Lair,	Ross,
Cooper,	Lane,	Shannon,
Gooch,	Lightfoot,	Stewart,
Harris,	Martin of Cooke,	Swain,
Henderson,	Martin of Navarro,	Terrell,
Hightower,	Moore,	Weatherred,
Homan,	Powers,	Wynne.

NAYS—none.

NOT VOTING—2.

Burges,

Burton.

Resolution read the third time and passed by the following vote:

YEAS—23.

Buchanan of Grimes	Lair,	Ross,
Buchanan of Wood,	Lane,	Shannon,
Cooper,	Lightfoot,	Stewart,
Gooch,	Martin of Cooke,	Swain,
Harris,	Martin of Navarro,	Terrell,
Henderson,	Moore,	Weatherred,
Hightower,	Powers,	Wynne,
Homan,	Rainey,	

NAYS.

Houston.

NOT VOTING.

Burges,

Burton.

Senate joint resolution No. 18, "proposing amend section 14 of article 8 of the Constitution of the State of Texas," as business on the President's table, was next taken up.

Senator Lane, by leave, introduced a joint resolution,

"Amending section 17, article 5 of the State Constitution, so that the number of terms of the county court for civil and criminal business in each of the counties of this State, may be prescribed by the county commissioners' court of the counties respectively." Referred to the Committee on Constitutional Amendments.

On motion of Senator Homan, the Senate adjourned until ten o'clock to-morrow morning.

THIRTY-FIRST DAY.

SENATE CHAMBER,
AUSTIN, February 15, 1881. }

The Senate met pursuant to adjournment; the President in the chair.

Roll called—quorum present.

Prayer by Rev. Dr. Bunting.

On motion of Senator Buchanan of Wood, the reading of the journal of yesterday was dispensed with and the same adopted.

Senator Davenport presented a petition signed by a committee representing a mass meeting of the citizens of Hamilton county, protesting against a change by the Legislature of the charter now held by the Gulf, Colorado and Santa Fe railroad. Referred to Committee on Internal Improvements.

Also, a petition of citizens of Callahan county, protesting against the repeal of the stock law. Referred to Committee on Stock and Stockraising.

Senator Duncan presented a memorial of citizens of Gregg county, praying that a constitutional amendment be presented by the Legislature to the voters of Texas prohibiting the manufacture, importation and sale of intoxicating beverages in the State of Texas, except for mechanical or medicinal purposes, or wine for sacramental use. Referred to Committee on Constitutional Amendments.

Senator Homan presented a memorial of Mrs. A. E. Hubby, for herself and other teachers, asking payment for services rendered as teachers of free schools in 1871. Referred to Judiciary Committee No. 1.

Senator Shannon presented a petition of citizens of Motley county, asking that said county be attached to Baylor county for judicial and surveying purposes. Referred to Committee on Judicial Districts.

Senator Swain, chairman of the Committee on Penitentiaries, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 15, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Penitentiaries, to whom was referred Senate bill No. 162, "An act to provide for the sale, exchange or destruction of useless or injured property belonging to the State penitentiaries," have had the same under consideration, and have instructed me to report the same to the Senate, and in view of the fact that there is a great deal of property at the penitentiary worn out, and become useless, which has been turned over from one lessee to another, and there being no law upon our statute authorizing the board to dispose of the same, it is deemed expedient and proper to pass this act, and your committee so recommend.

SWAIN, Chairman.

Bill read first time.

Senator Buchanan of Wood, chairman of Committee on Educational Affairs, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 14, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Educational Affairs, to whom was referred Senate bill No. 157, entitled "An act for leasing the public free school lands of the State of Texas, and prescribing regulations and penalties to render it efficient," have considered the same, and instruct me to report it back to the Senate with the recommendation that one hundred copies of it be printed for the use of the Senate, and that it do pass.

There are about forty million acres of land belonging to the permanent free school fund of the State. The policy of the State has been and now is, to sell it only in small quantities, to the end that it may be reserved for actual settlers, and purchasers of small means, as an encouragement to populate the State, as well as to reserve the bulk of it until a larger price can be obtained for it. While this remains the policy, the interest of the children of the State demands that, if practicable, it shall be utilized to augment the annual available school fund. The only way to do this, in the absence of sales, is to lease it. As a term of lease, provided by the bill, is only twelve months (made so in order that the land may not be tied up for a longer term, which might prevent purchase and actual settlement), it can only be enforced by penal provisions, prohibiting stock, etc., from being herded on these lands, in exclusion of the public, without leasing them. We believe, from estimates we have made, that if the bill becomes a law, and is enforced, that a revenue of nearly, if not quite, one hundred thousand dollars will be annually derived for the benefit of the available common school fund.

BUCHANAN of Wood, Chairman.

Bill read first time, and, on motion of Senator Buchanan of Wood, one hundred copies of bill and report ordered printed.

Senator Lane, chairman of Committee on Finance, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 15, 1881.

Hon. L. J. Storey, President of the Senate

Your Committee on Finance have had under consideration Senate bill No. 102, entitled "An act making an appropriation for the support of the State government for the years beginning March 1, 1881, and ending February 28, 1883," and I am directed to report back to the Senate the accompanying substitute, in lieu of said original bill, with the recommendation that it do pass; and with the request that 200 copies of said substitute be printed for the information of the Senate.

LANE, Chairman.

Bill read first time, and, on motion of Senator Lane, 200 copies of substitute ordered printed.

Senator Buchanan of Grimes, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 15, 1881.

Hon. L. J. Storey, President of the Senate:

Your Committee on Engrossed Bills have compared and carefully examined Senate bill No. 119, entitled "An act to amend article 3593, chapter 9, of title 71 of the Revised Civil Statutes of the State of Texas," and find the same correctly engrossed.

BUCHANAN of Grimes, Chairman.

Senator Davenport introduced a bill entitled "An act to authorize the counties of this State to take up their outstanding warrants or evidences of debt, executed for debts incurred in erecting public buildings, and to execute others in lieu thereof, and to provide by special tax for the payment of the principal and interest of the same." Referred to Judiciary Committee No. 1.

Senate joint resolution No. 12, "proposing to amend section 56, of article 16, of the Constitution of the State of Texas," being first special order, was taken up, read third time and lost by the following vote, it requiring a two-thirds vote of all the members to adopt:

YEAS—18.

Buchanan of Wood,	Houston,	Powers,
Burges,	Lair,	Raney,
Davenport,	Lane,	Shannon,
Gooch,	Lightfoot,	Swain,
Harris,	Martin of Cooke,	Weatherred,
Henderson,	Moore,	Wynne.

NAYS—8.

Buchanan of Grimes,	Duncan,	Ross,
Burton,	Homan,	Stewart.
Cooper,	Martin of Navarro,	

NOT VOTING—2.

Hightower,	Terrell.
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Senator Martin of Navarro asked that the following reasons for voting no on the resolution be printed in the journal: